

U.S. Serial No. 10/749,085
Attorney Docket: 25355A

REMARKS

The Applicants have carefully reviewed and considered the Office Action of 31 October 2007. In response, the transcription error regarding the numbering of original claim 4 has been corrected and accordingly the objection to the claims under 37 C.F.R. 1.126 is now overcome and should be withdrawn. In addition, independent claims 1 and 16 have been amended so as to more clearly patentably distinguish the present invention from the prior art of record.

The substantive rejection of the claims will be discussed in detail in the following subsections.

I. THE REJECTION OF CLAIMS 1, 2, 4, 15-17, 19 AND 29-32 UNDER 35 U.S.C. §102(b) AS BEING ANTICIPATED BY U.S. PATENT 3,886,706 TO BAKER

As set forth in MPEP §2131, "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference." *Verdigaal Bros. v Union Oil Co. of California* 814 Fed 2d 628, 631, 2USPQ 2d 1051, 1053 (Fed. Cir. 1987).

As amended, claim 1 reads on a ceiling panel for use in a suspended ceiling system. That ceiling panel comprises a main frame forming an outer periphery that defines an opening, at least two crossing members bridging that opening within the main frame and a veil facing material containing glass fibers. The facing material is adhered to the main frame and the crossing members. Further, as amended, claim 1 further provides that the ceiling panel fits in a conventional suspended ceiling grid system. Support for this amendment is found throughout the specification including, for example, on page 2 in the first full paragraph of the section entitled "Summary of the Invention".

The Baker patent relates to a modular building panel of the type that is manufactured in a quantity in a factory and then shipped to a building site and assembled into buildings of prefabricated design. See, for example, column 1, lines 7-13 of the Baker patent. A load bearing building panel of the type disclosed in the Baker reference is in no way similar to or anticipatory of a ceiling panel for use in a suspended ceiling system as set forth in claim 1 of

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the present application. Further, it is clear that the Baker panel is not made or suited for fitting in a conventional suspended ceiling grid system as explicitly required by amended claim 1. Consequently, it is clear that each and every element set forth in claim 1 is not found inherently or expressly in the Baker reference. Accordingly, the Baker reference does not provide a proper basis for the rejection of claim 1 and the rejection based upon the Baker reference should be withdrawn.

Claims 2, 4, 14, 15 and 31, which depend from claim 1 and are rejected on the same grounds, are equally allowable for the same reasons.

As amended, independent claim 16 reads on a method of making a ceiling panel for use in a suspended ceiling system. The method comprises the steps of providing a main frame defining an opening, providing first and second crossing members within the main frame wherein each of the first and second crossing members bridges the opening in the main frame, providing a veil facing material containing glass fibers and affixing that facing material to the main frame and the first and second crossing members. As amended, claim 16 further provides that the ceiling panel fits in a conventional suspended ceiling panel grid system. As noted above, the modular building panel disclosed in the Baker reference is not intended or suited to fit in a conventional suspended ceiling grid system. Further, it is unclear why one skilled in the art of suspended ceiling systems would review or consider modular building systems of the type disclosed in Baker. Simply stated, the two arts are nonanalogous. Thus, the Baker reference cannot possibly provide a basis for the rejection of claim 16 under any provision of the patent statutes.

Claims 17, 19, 29, 30 and 32 which depend from claim 16 and are rejected on the same grounds are equally allowable for the same reasons.

**II. THE REJECTION OF CLAIMS 3, 5, 6, 13, 18, 20, 21 AND 28 UNDER
35 U.S.C. §103(a) AS BEING UNPATENTABLE OVER THE BAKER REFERENCE
WHEN CONSIDERED IN COMBINATION WITH U.S. PATENT 4,272,804 TO BLUM**

As noted above, the primary reference to Baker relates to a modular building panel for use in the construction of a building of prefabricated design. The primary reference does not relate to a ceiling panel for fitting in a conventional suspended ceiling

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grid system as set forth in claims 3, 5, 6 and 13 which depend from claim 1 and claims 18, 20, 21 and 28 which depend from claim 16. Further, since the Baker reference is nonanalogous art, it is unclear how or why the reference would be considered relevant to the present invention by any one skilled in the suspended ceiling field.

While the secondary reference to Blum does disclose a panel frame system made of extruded plastic as noted by the Examiner, when the Baker and Blum references are considered in combination they simply fail to teach or suggest the claimed invention. In fact neither of the Baker nor Blum references relate to a ceiling panel for fitting in a conventional ceiling grid system. Thus, it is clear that these claims should be allowed.

**III. THE REJECTION OF CLAIMS 7 AND 22 BASED UPON THE BAKER AND BLUM REFERENCES WHEN CONSIDERED IN FURTHER COMBINATION WITH
U.S. PATENT 7,062,886 TO AURIEMMA**

The secondary reference to Auriemma discloses a hold down clip for a suspended grid ceiling system constructed from PVC plastic. It should be appreciated, however, that the Auriemma reference fails to address the missing teaching noted above with respect to the primary reference to Baker. More specifically, Auriemma, like Baker and Blum all fail to teach or suggest a ceiling panel of the claimed construction or a method for making that ceiling panel wherein the panel is adapted for fitting into a conventional suspended ceiling grid system. Accordingly, claim 7 and 22 clearly patentably distinguish over this art and should be allowed.

**IV. THE REJECTION OF CLAIMS 8, 9, 23 AND 24 UNDER
35 U.S.C. §103(a) AS BEING UNPATENTABLE OVER THE BAKER AND BLUM REFERENCES WHEN CONSIDERED IN FURTHER COMBINATION WITH U.S. PATENT
APPLICATION PUBLICATION 2003/0145532 TO KOWNACKI ET AL.**

As noted above, the Baker and Blum references fail to teach or suggest a ceiling panel for use in a suspended ceiling panel system having the structure as set forth in claim 1 which claims 8 and 9 depend. Additionally, the Baker and Blum reference fail to teach or suggest a method of making a ceiling panel of the claimed construction adapted for fitting in

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a conventional suspended ceiling grid system as set forth in claim 16 from which claims 23 and 24 depend. While the additional secondary reference to Kownacki et al does disclose a plastic material incorporating a calcium carbonate filler as suggested by the Examiner, the combination of references still fails to teach or suggest the present invention. More specifically, the primary reference to Baker relates to a modular building panel for the construction of buildings of prefabricated design. The reference fails to provide any teaching relevant to (a) the construction of a ceiling panel for fitting into a conventional suspended ceiling grid system or (b) to provide any suggestion to construct such a structure as claimed in the current application. The Kownacki et al reference fails to address this missing teaching of the primary reference to Baker and, accordingly, the combination of references also fails to teach or suggest the present invention as claimed in claims 8, 9, 23 and 24. Accordingly, these claims should be allowed.

V. CONCLUSION

In summary, all of the pending claims patentably distinguish over the prior art and should be formally allowed. Upon careful review and consideration it is believed that the Examiner will agree with this proposition. Accordingly, the early issuance of a formal Notice of Allowance is earnestly solicited.

Applicants authorize any fees required pertaining to this response be charged to Deposit Account 50-0568.

Respectfully submitted,
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